UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:14-cr-00229-MOC-DCK

UNITED STATES OF AMERICA,)
)
)
)
Vs.) ORDER
)
DAVID LEE FUDGE,)
)
Defendant.)

THIS MATTER is before the Court on defendant's pro se Motion to Reduce Sentence. For cause, defendant states that he believes his sentence was unfair in light of the sentences given to other defendants who testified. There is, however, no provision of law that would allow this Court to modify a previously imposed sentence, which has become final, on a defendant's motion attacking the fairness of the sentence. See Fed.R.Crim.P. 35; 18 U.S.C. § 3582.

Rather, the only avenue open for a defendant who is claiming *the right to be released*, <u>see</u> 28 U.S.C. § 2255(a), is to file a Motion to Vacate, Set Aside or Correct the Sentence under 28 U.S.C. § 2255. Nothing in the present motion provides any indication that defendant is attempting to file such a motion at this time. Defendant is advised that a prisoner may only file one Section 2255 petition and that any such petition must be filed within one year of the Judgment becoming final.

ORDER

IT IS, THEREFORE, ORDERED that defendant's pro se Motion to Reduce Sentence (#822) is **DENIED** without prejudice as no relief is available as a matter of law.

Signed: March 23, 2018

Max O. Cogburn Jr

United States District Judge

2